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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,395	12/05/2005	Ralf Plaumann	01012-1032	5594
30671 7590 08/11/2008 DITTHAVONG MORI & STEINER, P.C. 918 Prince St. Alexandria, VA 22314				
EXAMINER				
KERVEROS, JAMES C				
ART UNIT		PAPER NUMBER		
2117				
MAIL DATE		DELIVERY MODE		
08/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/559,395

Applicant(s)

PLAUMANN ET AL.

Examiner

JAMES C. KERVEROS

Art Unit

2117

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 08 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CDC)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

This is a **FINAL Office Action** in response to the Amendment filed 7/8/2008.

Claims 1-14 are presently under examination and pending.

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), for GERMAN Application No. 103 25 288.6, filed 06/04/2003, which papers have been placed of record in the file.

The present US Application 10/559395, filed 12/05/2005 is a national stage entry of PCT/EP04/03251, international filing Date: 03/26/2004.

Objection to the drawings has been withdrawn in view of the Replacement Sheet for Fig. 3, received on 7/28/2008.

Response to Arguments

Applicant's arguments, see Remarks filed in the Amendment on 7/8/2008, with respect to the rejection of Claims 1-14 under 35 U.S.C. 102(e) as being anticipated by Lucidarme (US Patent No. 7,197,050), have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made as set forth in the present Office Action, below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which

it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification lacks enablement with respect to claimed limitation, "the stress to which the mobile-telephone under test is subjected is influenced in a targeted manner the number of transmission blocks of a multi-block", as recited in the independent claims 1, 9, as currently amended. The specification merely describes, "Accordingly, the stress, to which the mobile-telephone device under test is subjected, can be influenced in a targeted manner". The specification fails to properly describe how a person of ordinary skill in the art can determine the amount of stress on the mobile-telephone device under test based on some targeted manner.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 9, as currently amended, recite the limitations, a selection device for specifying in a manner such that the stress to which the mobile-telephone

under test is subjected is influenced in a targeted manner the number of transmission blocks of a multi-block, which address the mobile-telephone device under test, between one transmission block per multi-block and all of the transmission blocks per multi-block, wherein a multi-block includes a fixed number of transmission blocks, renders the claims indefinite, because it is unclear whether the limitations following the phrases "in a manner such" and "targeted manner" are part of the claimed invention. Furthermore, it is not clear how stressing the mobile-telephone under test is influenced in a targeted manner the number of transmission blocks of a multi-block.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Harris et al. (US Patent No. 6,813,477), filed: February 20, 2001.

Regarding independent Claims 1 and 9, Harris discloses a Digital testing system and method for determining the error rate in a data transmission by transmitting an

excitation signal 345 to the unit under test 350 including, but not limited to, trunked radios, cordless telephones, and licensed HAM radios, Fig. 3, 4, comprising:

Transmitting an excitation signal 345 to the unit under test 350, which is equal to the test signal 315 added to the interference signal 335, Fig. 3

Receiving the transmitted result signal 355 to be transmitted to the BER tester 305.

The received information on the received result signal 360 is compared to the original information on the test signal 315. If this information is substantially similar, the test was successful. If the information on the signals is not substantially similar, further testing is necessary to locate the interference frequency that caused the error.

Determining the error rate using the BER tester 305. Upon completion of the test, the system checks to see if an error occurred (step 415). An error occurs when one or more of the frequencies in the test range cause blocking on the receiver. This occurs when the intended test signal is not received properly due to the interference. If no errors are detected, the next test can be run on the next band of frequencies. The next band is selected by moving the test band to the set of frequencies directly above the preceding test.

If an error occurred 420, the method proceeds to steps 435-450). The test band is subdivided 435 to locate the frequency or frequencies causing the error, as shown in Figs. 4 and 6. If an error is found in one or both of the subdivided bands 605, 610, the band(s) with the error should be subdivided again. The procedure of testing and subdividing is repeated until the subdivided test band is less than a threshold value or

limit. This limit is determined by the manufacturer or tester of the device. Once the band reaches the limit, it can be tested by sending single frequencies through the test procedure 440. After the tests are run on the individual frequencies in the small band, the errors are recorded. These are the actual frequencies at which the under test 350 has reception errors.

Regarding Claims 2-8, 10-14, a computing device 110 may transmit signals to, or receive signals from, one or more communications systems 136 such as a cellular network, RF network, computer network, cable network, optical network or the like. The processing unit 112 interfaces to each communications system 136 through a transmitter 126 and a receiver 128, both coupled to the processing unit 112 over the system bus 118. The transmitter 126 and the receiver 128 may include one or more of a variety of transmission techniques such as a radio frequency interface (AM, FM, FSK, PSK, QPSK, TDMA, CDMA, Bluetooth or other technique) or an optical interface such as infrared or IRDA, Fig. 1.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES C. KERVEROS whose telephone number is (571) 272-3824. The examiner can normally be reached on 9:00 AM TO 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques H. Louis-Jacques can be reached on (571) 272-4150. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMES C KERVEROS/
Primary Examiner, Art Unit 2117

Date: 12 August 2008
Office Action: Final Rejection

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